

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AMBASSADOR ANIMAL HOSPITAL, LTD.,)
 individually and as the representative of a class) No. 1:20-cv-2886
 of similarly situated persons,)
)
 Plaintiff,)
 v.)
)
 ELANCO ANIMAL HEALTH)
 INCORPORATED and ELI LILLY AND)
 COMPANY,)
)
 Defendants.)

DEFENDANTS' NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1331, 1367, and 1441, Defendants Elanco Animal Health Incorporated (“Elanco”) and Eli Lilly and Company (“Lilly”) hereby notice removal of the above-captioned state court civil action pending in the Circuit Court of Cook County, Illinois, County Department, Chancery Division (Case No. 2020-CH-03799), to the United States District Court for the Northern District of Illinois. The Complaint asserts a federal law claim for violation of the Telephone Consumer Protection Act, 47 U.S.C. §227, and a state law claim for conversion. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1367, and 1441.

In further support of this Notice of Removal, Defendants state as follows:

PROCEDURAL HISTORY

1. On April 10, 2020, Plaintiff Ambassador Animal Hospital, Ltd. filed this action in the Circuit Court of Cook County, Illinois, County Department, Chancery Division. A true and correct copy of the Complaint and its exhibit are attached as **Exhibit 1**. A copy of the summons, as served on Elanco, is attached as **Exhibit 2**. A copy of the summons, as served on Lilly, is

attached as **Exhibit 3**. The Circuit Court of Cook County, Illinois, County Department, Chancery Division, Civil Case Cover Sheet is attached as **Exhibit 4**. Plaintiff's Motion for Class Certification and Notice of Motion are attached as **Exhibit 5**. An April 10, 2020, preservation demand letter directed at Elanco is attached as **Exhibit 6**. An April 10, 2020, preservation demand letter directed at Lilly is attached as **Exhibit 7**. Exhibits 1 through 7 constitute all the process, pleadings, and orders served upon Defendants. A true and correct copy of the state court docket is attached as **Exhibit 8**.

2. Count 1 of the Complaint asserts a claim against Defendants under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227. *See* Ex. 1, ¶¶ 30–47. Count 2 of the Complaint asserts a claim against Defendants for common law conversion. *See* Ex. 1, ¶¶ 48–55.

PARTIES

3. Plaintiff is an Illinois corporation with its principal place of business in Oak Park, Illinois. Ex. 1, ¶ 9.

4. Elanco is a Delaware corporation with its principal place of business in Greenfield, Indiana. Ex. 1, ¶ 10.

5. Lilly is an Indiana corporation with its principal place of business in Indianapolis, Indiana.¹ Ex. 1, ¶ 11; **Exhibit 9**, Eli Lilly and Company Business Information.

TIMELINESS OF REMOVAL

6. Elanco was served on April 15, 2020. Lilly was served on April 15, 2020.² **Exhibit 10**. This Notice of Removal has been filed within 30 days of service. This Notice is therefore timely pursuant to 28 U.S.C. § 1446(b).

¹ The Complaint erroneously alleges that Lilly is a Delaware corporation.

² Lilly was served with an identical set of pleadings a second time on April 21, 2020.

BASIS FOR REMOVAL JURISDICTION

7. This Court has original jurisdiction over these proceedings pursuant to 28 U.S.C. § 1331 because the Complaint presents a claim “arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Count 1 of the Complaint alleges a violation of the TCPA, a federal law.

8. Pursuant to 28 U.S.C. § 1441(a), a defendant may remove “any civil action brought in a State court of which the district courts of the United States have original jurisdiction.” As set forth above, the Court has original jurisdiction over Plaintiff’s claims under § 1331 because they arise under the laws of the United States. Therefore, this action is removable to this Court pursuant to 28 U.S.C. § 1441(a). *See Benedia v. Super Fair Cellular, Inc.*, No. 07 C 01390, 2007 WL 2903175, at *1 (N.D. Ill. Sept. 26, 2007) (“TCPA claims brought in state court may be removed to federal court under *either* the Class Action Fairness Act (‘CAFA’) *or* the general removal provision, 28 U.S.C. § 1441(a) . . . because ‘a claim that a business violated the Telephone Consumer Protection Act arises under federal law’” (quoting *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 450 (7th Cir. 2005))).

9. This Court also has supplemental jurisdiction over Count 2 of the Complaint pursuant to 28 U.S.C. § 1367(a) because it arises out of the same series of events that give rise to Plaintiff’s TCPA claim, and both claims form part of the same case or controversy. *See* 28 U.S.C. § 1367(a).

REMOVAL TO THE NORTHERN DISTRICT OF ILLINOIS IS PROPER

10. Pursuant to 28 U.S.C. § 1441(a), this Court is a proper venue for this action because the Eastern Division of the United States District Court for the Northern District of Illinois embraces Cook County, where the state-court action was pending. *See* 28 U.S.C. § 93(a).

NOTICE TO STATE COURT AND PLAINTIFF

11. Pursuant to 28 U.S.C. § 1446(d), this Notice of Removal will be filed with the Clerk of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, and promptly served upon counsel for Plaintiff.

WHEREFORE, the case now pending in the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Case No. 2020CH03799, is hereby removed to the United States District Court for the Northern District of Illinois pursuant to 28 U.S.C. § 1441.

Dated: May 13, 2020

Respectfully submitted,

By: /s/ Bart T. Murphy (with permission)

By: /s/ Lynn H. Murray

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CERTIFICATE OF SERVICE

I, Lynn H. Murray, an attorney, hereby certify that on **May 13, 2020**, I have caused the foregoing to be electronically filed with the Clerk of Court using the CM/ECF system, which will send notice of such filing to any attorneys of record. I hereby further certify that on **May 13, 2020**, I have caused a true and correct copy of the foregoing to be served upon the following counsel of record:

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